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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,282	01/04/2005	Makoto Oyama	096570202169-US0	5713
7278	7590	02/03/2009		
DARBY & DARBY P.C. P.O. BOX 770 Church Street Station New York, NY 10008-0770			EXAMINER	
			HALE, GLORIA M	
			ART UNIT	PAPER NUMBER
			3765	
			MAIL DATE	DELIVERY MODE
			02/03/2009 PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/517,282

**Applicant(s)**

OYAMA ET AL.

**Examiner**

Gloria Hale

**Art Unit**

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11-21-08AMDT and 1-29-09IDS.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12-6-04 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S5108)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date 1-29-09

## **DETAILED ACTION**

### ***Claim Objections***

Claims 1,2,5,6,9,10 and 11 are objected to because of the following informalities: The term "wear's" should read – wearer's– . Appropriate correction is required.

Applicant's representative is advised to review the entire specification and claims for similar spelling errors and correct them in addition to the above listed errors.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the spts, tights, leotard, tights and bodysuit garments as claimed in claims 24-26 must be shown or the feature(s) canceled from the claim(s). Also the figures do not show the No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering

of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-26 are rejected under 35 U.S.C. 102(b) as being anticipated by TAKATOMO(JP11061516(A)).

In regard to claims 1-14, TAKATOMO discloses a sports pants garment 10( as seen in figures 1-3 and 6)with stretchable synthetic resin tightening portions placed on a crotch –possessing pants garment wherein the tightening portion includes an increasing magnitude of the tightening portions resistance to stretching and which varies with direction. (See TAKATOM, figures 3,6 portions 16,17,13,44 etc wherein the bands are expanded and provide less support).The TAKATOMO tightening portion runs from above the anal cleft 16 (as seen in figure 2)of the wearer's body and downwards to a position overlying the left and right greater trochanters 15,17,20 at the left and right sides of the wearer's body. The tightening portions resistance to stretching in the direction in which the tightening portion runs is made to be lower than the tightening

portion's resistance to stretching in the direction orthogonal thereto in a plane parallel to the surface of the skin of the wearer's body over which the tightening portion overlies. The TAKATOMO garment has thigh portions that fit over the wearer's thighs(as seen in figure 3) with the tightening portion running over the greater trochanters along the outsides of the thigh. The tightening portion has a shape that is curved above the buttocks 16. The TAKATOMO garment also includes a tightening portion that has front and rear forks(front fork- 23(figures 3,6 and rear fork 17) overlying the greater trochanters wherein the front fork 23 extends upward and the rear 17 forks overlie the greater trochanters to a point 16 above the anal cleft. TAKATOMO includes supplementary tightening portions as claimed and as seen in figure 3. The supplementary tightening portions broaden (at 25 to 34)as they extend downwardly and are narrower to 22 in figure 3 as they extend upwardly as claimed. IN regard to claims 15-16The front tightening portion runs from above the crotch as seen in figure 1 portion 20 of 24.The TAKATOMO tightening portion has an approximately constant width as claimed in claims 18-20. The bands of TAKATOMO are knitted fabric bands and include the applied stretchable resin. The bands are knitted because only a knitted material would extend as TAKATOMO necessitates. The resin applied is stretchable (see TAKAToMO Abstract) and would stretch with the knitted material Knitted fabrics are either constructed of a circular knit or warp knitted materials and therefore include a material including one of those as claimed in claims 21-23. The garment of TAKATOMO is a pant garment as claimed claims 24-26.

***Response to Arguments***

The newly submitted prior art reference to TAKATOMO clearly discloses the invention as broadly claimed and as outlined above. The examiner is issuing a new Non-Final Office action as a courtesy to applicant's representative who submitted the TAKATOMO reference in the Information Disclosure Statement of 1-29-09.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Dicker reference includes an adjustable band with the varying stretching along the band and direction..

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria Hale whose telephone number is 571-272-4984. The examiner can normally be reached on Mon.-Thurs.,...

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on 571-272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gloria Hale/  
Primary Examiner, Art Unit 3765

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